

**MINUTES OF THE
GREENSBORO ZONING COMMISSION**

JANUARY 12, 2004

REGULAR MEETING

A regular meeting of the Greensboro Zoning Commission was held on Monday, January 12, 2004, at 2:00 p.m., in the City Council Chambers, Second Floor, Melvin Municipal Office Building, Greensboro, North Carolina. Members present were Chairman Gary Wolf, J.T. Higgins, Paul Gilmer, Bill Schneider, Janet Wright, Tony Collins, Maureen McDonnell, Brian Byrd and J.D. Haynes. The Planning Department was represented by Robert Morgan, Assistant City Manager, and Bill Ruska, Zoning Administrator.

Chairman Wolf welcomed everyone to the Zoning Commission regular meeting. He explained the procedures of the meeting. He further advised that the meeting was being recorded and also televised on Channel 13, and was being closed captioned for the hearing impaired.

Chairman Wolf stated that if any person was going to speak on a request, at the appointed time he/she should come to the speaker's stand and give his/her name and address for the record. He further advised that each side would be limited to a total of 20 minutes, regardless of the number of persons speaking for that particular side. Each side may also have an additional 5 minutes in rebuttal.

APPROVAL OF THE MINUTES OF THE DECEMBER 8, 2003 REGULAR MEETING.

Ms. Wright moved approval of the minutes of the December 8, 2003 regular meeting as written, seconded by Mr. Gilmer. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes. Nays: None.)

CHANGES IN AGENDA

Henry Isaacson, Esq., 101 West Friendly Avenue, stated that this request for continuance concerns Item D under the Public Hearings on the agenda. He said they were prepared to hear this case today until last Thursday, some two business days ago, when he received a letter from the staff stating that in staff's opinion there were some issues involved with respect to this case. In effect, staff questioned the propriety of the filing of this case at this time. He said he represented Granite Corporation. He immediately sent a copy of the letter to the Chief Executive Officer, Mr. Richard Vaughan. After examining the letter, he telephoned Attorney Isaacson on Friday and asked that he appear before the Commission today and request a 30-day continuance of this case. He felt like the questions raised in this letter from staff warranted further discussion with the Manager's Office and with the Planning Staff to see if they could work through those issues before hearing this case before the Zoning Commission. Therefore, he said he would request that the Commission continue this matter

until its February meeting. It is the first time it has been on the Commission's agenda. In order to not inconvenience any of the neighbors, he did telephone the neighborhood contact with whom they had been working for sometime on this case and asked her to please spread the word. He telephoned Mr. Ruska about it and also telephoned the newspaper reporter who had been following this story and Attorney Isaacson believed that the reporter posted their request on the Internet. So he asked the Commission for a 30-day period in which to meet with the staff and Manager's Office, and also to meet with some people in the neighborhood whom they had not met with, to see if they could resolve the issues raised in the Planning staff's letter.

In response to a question from Ms. McDonnell, Attorney Isaacson said staff had the concern that because the application for this rezoning contravened the generalized future land use map, which is part of the comprehensive land use plan, in that it was in excess of 10 acres, that they first had to go to City Council and obtain an amendment to the actual plan itself before they could have this case heard and that the Zoning Commission was not authorized to approve this case prior to that happening. That is one of the issues they wish to try to work through. They feel otherwise or they would not have filed their application. They wish to meet with staff and try to convince them that Attorney Isaacson and his client are correct in their interpretation of the actual plan itself, rather than just the generalized future land use map, which is a part of the plan.

Mr. Collins moved the continuance of Item D until the Commission's February meeting, seconded by Ms. Wright. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes. Nays: None.)

Chairman Wolf commented that he had been on the Commission 3 years and although he was a practicing commercial real estate attorney in Greensboro, and you can draw whatever conclusions you want to from that, this is the first case that he ever recalled prior to a hearing before the Zoning Commission that the case was tried in the public. The *News & Record* can decide whatever they want, but he did not know what facts they operate upon. This Commission has not heard all the facts and apparently the *News & Record* thinks they have heard all the facts because they came out with an editorial this morning in which they have taken a position, prior to the Zoning Commission hearing any facts in this case. If the *News & Record* and certain people within the City want to decide to do something at the City Council level between this hearing and the City Council, that is what the politicians get paid for. They run for election. But this Commission has not heard all the facts and he said he did not appreciate the *News & Record* trying to intimidate this Commission. He had spent quite a bit of time looking through this comp plan and he found a lot of language in it that reads, "This is a generalized future land use plan." It is not to be interpreted as a zoning map nor is it appropriate for application at a parcel by parcel scale, and it depicts broad policies. Yet he read an article by the *News & Record* last Friday that tells us this should be a done deal; that this should be turned down automatically. And then he saw an editorial in the upper left hand corner of the editorial page telling us this is a "no-brainer" and that we should turn it down. He said he wondered what facts they know that the Commission does not know because they have not heard any. He had looked at the site; a lot of the people here on this Commission rode out there and looked at the site. He did not know what facts Mr. Isaacson's client was going to put up today. He did not know what facts the City Planning Department was going to

put up today. But he just was not going to follow what the *News & Record* tells him to do and

he was not to be intimidated by what they think we should do in this community. What we should do in this community gets decided in an open forum at this level. And then what the City Council wants to do, they are pleased to do that. But he expected this Commission not to be having articles trying to intimidate us what to do. So the Commission will hear this next month, but he was not happy in what he had seen in the newspaper. We are a legislative board. We are supposed to hear evidence that is presented to us today. He was not pleased with this kind of conduct at all, regardless of where it was coming from.

Ms. McDonnell said she was actually trying to get back on track with trying to figure out the facts of this, and she was still confused about this procedural difficulty. They have to go to City Council to get an amendment before the land use is decided?

Mr. Morgan said the comprehensive plan indicates that this area is to be low density residential. When a rezoning case is in conflict with the comprehensive plan, the proper procedure is to amend the comprehensive plan prior to having a zoning amendment.

Ms. McDonnell asked what would the amendment state? What is the real purpose of the amendment?

Mr. Morgan said the amendment would be to amend the land use map in the comprehensive plan.

Ms. McDonnell said would that be to amend it as voted on by this Commission?

Mr. Morgan said no; the procedure would involve the amendment being considered by the Planning Board, the Planning Board then would make a recommendation to the City Council. Then the City Council would vote on it.

Mr. Collins asked Mr. Morgan if this was new? This Commission has voted on things recently that staff said were in conflict with the comprehensive plan that did not go to City Council.

Mr. Ruska said that this procedure was laid out in Chapter 10 of the plan, which deals with implementation. There are about 2½ pages or so that lay out the procedure.

Chairman Wolf said, for example, he looked at plan amendments and one of the provisions it puts in there, "Plan amendment shall be approved by a majority vote at City Council. However, the following shall not be considered to require a plan amendment," and one of those is, "Small-scale developments involving minor deviations or adjustments to the future land use map generally less than 10 acres." There is not a single thing in this package that tells us that is over 10 acres. He did not know who got the idea that it was more than 10 acres.

Mr. Morgan said it was over 10 acres.

Mr. Ruska stated that the acreage was on the map that the Commissioners get.

Chairman Wolf said then he did not see that because the application request does not

mention it.

Ms. Wright said it did say that. This is another case where things might look good on paper, but when we start them may become cumbersome and that may be something that folks want to think about. Chairman Wolf said he was a real estate and commercial attorney and she came from the neighborhood side of the fence. However, she agreed with Chairman Wolf on this. She was very surprised by the editorial. She was surprised by the article on Friday, but she took that into account along with idea that the new rules that the Commission has about not having to have just sworn testimony, so that's where that came from. But the editorial was another thing. Yesterday she was attending a meeting where they asked how we went through our deliberative process. She said she explained about visiting the property, how they got factual information from the staff, the Commission heard from proponents and the Commission heard from opponents. The Commission then got the staff recommendation and the Commissioners talked among themselves and they took all that information together and made their decision. Nowhere in that has the paper been a part of her deliberative process and she had been on the Commission 11½ years (since 1989). If this is what our change in procedure is bringing forth, then maybe we need to look at some of our procedures because this was very uncomfortable for her.

Chairman Wolf said he would differ with the comment. The map may show how many acres, but a good hunk of this land is already HB and conditional district GB.

Mr. Morgan said that still did not get it below 10 acres.

Chairman Wolf said the property that they are looking to significantly change from the plan is probably close to 10 acres. He said he really had a problem with finding in the *News & Record* what this Commission's decision should be before the Commission has heard one person stand up at that mike and tell us anything.

Mr. Morgan said the City did not have anything to do with the *News & Record*.

Mr. Collins said the newspaper was offering an opinion on it.

Mr. Morgan said the staff was asked questions about the matter. He said he would differ with Mr. Collins.

Mr. Collins said that he understood Mr. Morgan but to him it was an opinion of staff and not a fact.

Mr. Morgan said that when the press asks staff a question about our decision, he thought staff had a responsibility to respond with why staff made a decision. There is no way to avoid that without looking like they are not doing their jobs.

Mr. Schneider said his concern was with the recommendation. This was the first case he had known what the City recommendation is in the 2½ years he had been on this Commission.

Mr. Morgan said this was a totally new procedure which was implemented as part of the comprehensive plan.

Mr. Schneider said this was the first time that the Commission had known what any recommendation from the City is prior to their coming here and starting the meeting.

Ms. McDonnell said her comment on the *News & Record* is that she would hope that as a Commission that the statements in the paper would not sway us in the opposite direction as well and that they just move on and next month hear the facts of the case and decide accordingly. Historically, the *News & Record* has made statements on a number of cases (and she could cite chapter and verse) where it has editorialized. So she thought that should not sway the Commissioners from their jobs and they will just need to move on next month and to it.

Back to the procedure, she was still having a hard time understanding what is the purpose of that amendment. What will they decide? They will decide that it can go against the comprehensive plan and then it comes back to us. Procedurally, what is that supposed to do?

Mr. Morgan said what happens is that if a rezoning request is contrary to the comprehensive plan or the land use portion of that, they would submit a statement to the City outlining their case based upon the criteria that is stated in the comprehensive plan. Staff would review that, make a recommendation and that would go to the Planning Board to make a recommendation to the City Council. Then the City Council will decide whether or not to amend the comprehensive plan. If Council agrees with the applicant, the plan would be amended and then the rezoning could come back to this Zoning Commission.

Mr. Byrd said he wanted to pursue that a little further because he had read the comprehensive plan, but it had been awhile and he did not recall all of the provisions regarding amendment of the plan. However, he was looking at the portions that Mr. Morgan directed the Commission to earlier and it does set forth a process for amendment of the plan. However, he did not see anywhere where it says the Zoning Commission and City Council shall not approve a rezoning request that is inconsistent with the generalized land use plan. He also noted that it says that the comprehensive plan amendment shall not be made more than twice per calendar year unless City Council finds by a positive vote of not less than 6 Council members that more frequent amendments are necessary. So unless you get a super majority on the City Council, you are essentially telling us that we cannot approve more than two rezoning requests per year that are inconsistent with the generalized land use plan.

Mr. Morgan said that was true; that is the ordinance that is adopted at this time.

Mr. Byrd said, just for his edification, could Mr. Morgan point him to the provisions of the comprehensive plan that say that the Zoning Commission cannot approve rezoning requests that are inconsistent?

Mr. Morgan said the Zoning Commission could do that, they can make a decision. But the staff would have to inform the Council the same way that they informed the Zoning Commission that the rezoning request is in conflict with the comprehensive plan. And this Commission could meet today, make a decision and send it on to Council.

Ms. McDonnell said perhaps she was too simplistic in her view, but if the Commission turns this down theoretically, then the amendment becomes moot, does it not? So why would they

not go ahead and hear this case and have the amendment, if the Commission voted in favor of it occur after the decision for land use?

Mr. Morgan said the applicant chose to ask for a continuation in the situation.

Mr. Higgins said everybody had put in their 2 cents worth and he wanted to throw his in. To him, it was going to be up to the City Attorney to determine and direct this Commission as to what the proper procedure is to follow and he was willing to live with whatever that direction is. But he could say that, like the other Commissioners, as long as he was on this Commission, even though his term expired last August, that he had an understanding was that he had a duty as long as he was on this Commission to use his best judgment as to what the best land use is. And he did not make up his mind until he gets here. He said he had never made any commitment to anybody ever about a rezoning that was pending. One of the sources the Commissioners have not heard from on this is the newspaper. Maybe the newspaper went out and talked to the neighborhood, but he had not heard anything from the neighborhood. Maybe the newspaper canvassed the neighborhood and talked to them about it and understands the nature of their problems and he understood that there were more than a few neighbors that may not want this to happen. He said he wanted to know why and he wanted to hear them. And using his best judgment, it seemed to him that he should use his experience, what he had learned about land use, what the land uses are around this property, what the zoning classifications are, what the existing zoning is, what the comprehensive plan is, what the neighbors have to say about it and what the developer has to say about it. He said he took all of that into consideration. Now if somebody wants to tell him that the comprehensive plan is God in this and that all these other factors should be ignored, then he did not understand his job. If the newspaper thinks it should be the comprehensive plan and nothing else, that would not be the first time he had disagreed with the newspaper. But it seemed to him that his job and everybody up here is to take into account all of these factors and not just any one of them.

Ms. Wright thanked Mr. Higgins for saying that. That was something she had thought about earlier. In talking about how the Commissioners went through their deliberative process, now that we have the comprehensive plan, that too is a part of her deliberative process. How does this fit in with the plan? But what she needed to know and how she needed to be directed by staff is, is that the overweighing factor in the whole thing; is that the most important part of the whole thing? And if that is the case, then maybe the Commissioners need to think about do we need a Zoning Commission? If it has been decided that everything that's on the maps for the comprehensive plan is the way it's going to be, then what are we doing here?

Mr. Morgan said he wished to respond and make some clarification. The staff is implementing and carrying out the ordinance that the Council adopted in May. They didn't just think this up. It is the first time that the plan and a rezoning request have come in conflict with each other and, quite frankly, they did not anticipate it quite so soon. He thought the questions the Commissioners have raised are important issues and he thought the Council might be thinking about some of these issues themselves. He certainly wanted to make it clear though that this Commission could have heard the case today and made a decision, and then it would have

been sent up to Council. The staff would make a recommendation to you and give you the facts as they see it, but it is still up to this Commission to hear the facts and make their own determination and that is not being usurped by this new process.

Ms. McDonnell said had she known what Mr. Morgan just said, she would have voted differently regarding the continuance because it did not seem to her that the Commission had a choice. It was that this amendment needed to be done, but if the Commission can determine the land use in advance of an amendment, then there was no reason to even ask for the continuance.

Mr. Morgan said he understood Ms. McDonnell's point and they could have gone each way. Staff suggested to the applicant, and he thought correctly so, that the amendment should be done first and that is the way the process is set out. But if the applicant had insisted on proceeding, then the Commission could have gone through their normal process and then the Council would have to make the final decision.

Ms. McDonnell said those were facts that this Commission could have weighed in determining whether or not a continuance was even necessary. And, frankly, if they voted down that, then there would be no purpose, as she said before, to even pursue the amendment. So it seems like we are having people jump through a lot of hoops that may not even be necessary.

Mr. Gilmer said, having served on the comp plan, now known as Connections 2025, when serving on that committee in no way did they intend to make doing business and making zoning cases much more complicated, as it seems this has turned out to be. It seems like they did something a little backwards. The Zoning Commission has appointed him to be on the Monitoring Committee, so perhaps when that committee meets in the next couple of months or whatever, then there might be some issues that they need to look at or try to do something because certainly he did not like this and he was a part of the comp plan, as he had said. But it just seemed to him that the rezoning should come before the Zoning Commission before jumping hoops and going backwards on it. He said he did not think that was fair. He agreed that the Commission should have known more of the facts. If Mr. Isaacson felt like he did not have a good chance of passing it due to technicalities of going back and doing an amendment or whatever. He thought all of the Commissioners should have known it. And he would assure the members of the Zoning Commission that the comp plan was not set up in their minds where there would be a problem like this, and this is a problem.

Chairman Wolf said the Commission needed to move on. He said that if there was anyone present for the Battleground Avenue/Horsepen Creek, it has been continued until February. So the Commission will entertain it next month where they will hear the facts related to it.

Someone from the audience asked if the Commission could hear one representative from the community so they would not have to take more time away from their jobs and families?

Chairman Wolf said the case had already been continued. He said the Commission had already moved on it. The Commission would hear from them next month. However, Chairman Wolf said they could come on up to the microphone and he would give them 2 minutes. He also said that the Commission was not here to hear the matter on its merits.

Roger Green, 3417 Derbywood Drive, which is a neighboring community to this proposed

development wanted to argue about the continuance simply because the developer should have already known that this was going to be at odds with the comprehensive plan and

anticipated any potential conflict at that time. Now they come in and get bogged down in procedural issues that should have been worked out in advance. He said they all came ready and prepared. He said they could see all the people here who were getting ready to leave the room and the Commission could know that there was a lot of interest in it by the community. Now it puts an undue burden on them. They have got to take off work again and come back here again and go through all of this again or they have got to go to the City Council. They had kind of anticipated having to do that. But now, they have done their homework although they got short notice by the developer. The developer came in between Christmas and New Year. They got to see a notice from the City.

Chairman Wolf said, as to the notice from the City, that was the time frame that applies to everybody.

Mr. Green said he understood that, but the developer could have chosen to apply later and they could have done a little homework. He said the point was if the Commission cannot hear it today and it goes to the Council, will the Council impose upon the Zoning Commission some type of resolution and you are not going to hear it at all?

Chairman Wolf said no, it had to come to this Commission first.

Mr. Green said the question is, if this is not in compliance with the comprehensive plan, then there has to be some special amendment passed by Council?

Chairman Wolf and Mr. Morgan stated that was to be determined. Chairman Wolf said this was the first case of the City taking the position that this is in direct contravention of the comp plan. The Commission has had other cases in which that was a topic of discussion at the hearing, but the Commission had yet to have a case, except for this one, in which the Thursday before the hearing, the developer was told that they were proposing a plan in contravention of the comp plan and that it was inappropriate to be heard. The developer did not hear about this, as Mr. Isaacson said, until Thursday.

Mr. Green said that Mr. Isaacson had to know that the comprehensive plan was going to come into play.

Chairman Wolf said it comes into play in many cases. The Commission has heard many cases in which no one stood up on behalf of anyone and said, "This should not be heard and requires a plan amendment." But the topic of whether it was in compliance with the comp plan was a discussion at the hearing.

Ms. McDonnell said she had a procedural question for staff. Typically when someone asks for (now these are unusual circumstances certainly) a continuance, the Commission asks if there is anyone in opposition to that continuance. When the Commission voted, it did not give any opportunity for opposition. She voted comfortably at that time, thinking that the Commission did not have a choice because the procedure required that the amendment come first. But the neighborhood actually did not even have an opportunity to oppose the continuance in this instance. So she said she was kind of throwing that out there as another component of the

procedure that needs to really be looked at.

Ms. Wright said there was another case in the last couple of months. The Commission had one not too long ago where they were told by staff that they had to vote no on the case because it was illegal because a road cut through was not in compliance with our ordinances, so this comp plan that was supposed to help us along, help us do a better job, has thrown a couple of roadblocks in front of the Commission already.

Mr. Gilmer said he thought that was with the street connection; he did not think that was with the comp plan. It was a connectivity issue; it wasn't a comp plan issue.

Mr. Byrd said he certainly regretted the inconvenience to all of these folks who have shown up in connection with this matter and ideally the Commission would have heard it today. He did not want these folks to think that the Commissioners are treating this case any differently than the Commission treats similar cases. He thought the Commission routinely grants one continuance in connection with these types of cases where there appears to be some issues that need to be worked out in order to give the developer and the neighborhood an additional opportunity to resolve their differences. So he just wanted to point that out so that these folks do not think that the Commission is treating this case any differently than other cases.

Mr. Morgan added that he contacted the City Attorney about that very fact. She said it was a matter of practice that if an applicant requested a continuation, that that was given. So that was why he did not intervene in the process.

Chairman Wolf said he did not think the Commission had ever turned down a first request to continue and they have entertained it from the neighbors who wanted a continuance and had good cause for asking for a continuance.

Mr. Green asked what were they continuing to?

Chairman Wolf said the Commission was continuing the matter to next month's meeting. He said the developer would not get another continuance unless the City somehow now comes up with some real good reason why they want a continuance or someone else wants a continuance and has good cause to ask the Commission for a continuance.

As to notice, Mr. Ruska said it would be the same notice that they received for this hearing.

PUBLIC HEARINGS:

- A. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING AGRICULTURAL TO CITY ZONING CONDITIONAL – PLANNED UNIT DEVELOPMENT – RESIDENTIAL DISTRICT WITH THE FOLLOWING CONDITIONS: 1) SECTION “A” WILL CONSIST OF APPROXIMATELY 29 ACRES. IT SHALL CONTAIN A MAXIMUM OF 80 SINGLE FAMILY LOTS. EACH LOT SHALL HAVE A MINIMUM AREA OF 7,000 SQUARE FEET. 2) SECTION “B” WILL CONSIST OF APPROXIMATELY 17 ACRES. IT SHALL CONTAIN A MAXIMUM OF 95 SINGLE FAMILY LOTS. EACH LOT SHALL HAVE A MINIMUM AREA OF 5,000**

SQUARE FEET. 3) SECTION "C" WILL CONSIST OF APPROXIMATELY 9 ACRES. IT SHALL CONTAIN A MAXIMUM OF 60 MULTIFAMILY UNITS OR A MAXIMUM

OF 45 SINGLE FAMILY LOTS WITH EACH SINGLE FAMILY LOT HAVING A MINIMUM AREA OF 5,000 SQUARE FEET. 4) THERE WILL BE TWO (2) STREET CONNECTIONS TO BIRCH CREEK ROAD PER THE APPROVED SKETCH PLAN. 5) THERE WILL BE A STREET CONNECTION TO THE BIRCH CREEK RIDGE SUBDIVISION THAT WILL CONNECT TO THE PROPOSED STONEY RUN DRIVE. 6) THERE WILL BE A MINIMUM OF ONE (1) STREET CONNECTION TO THE ADJOINING PROPERTY TO THE SOUTH. 7) THERE WILL BE A STREET CONNECTION TO THE ADJOINING PROPERTY TO THE WEST PER THE APPROVED ZONING SKETCH PLAN. 8) THERE WILL BE A MINIMUM OF 10 ACRES OF COMMON AREA. - FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF BIRCH CREEK ROAD BETWEEN BOBOLINK ROAD AND BURLINGTON ROAD – FOR GENEVA FRYAR. (FAVORABLE RECOMMENDATION)

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property.

Chairman Wolf asked that the applicant come forward.

Tom Hall, with Windsor Homes, 2311 West Cone Boulevard, said that their company was a local residential developer and builder that have this site under contract to build these homes. Their request was for annexation and to establish original City zoning for approximately 54 acres of land. The site is about 2 miles from the intersection of Highway 70 and Birch Creek Road. The property is in the eastern part of the City, which has been targeted for growth by the City of Greensboro. He said Mr. Ruska had covered most of the facts concerning this site. It is an area that was identified by the recently adopted comprehensive plan as a low density residential area, which allows up to 5 units per acre of residential usage. They believe that this is very much in keeping with the land use plan and the growth plan that City staff has targeted for this area. He reiterated the uses of the property surrounding the subject property. Specially, their plan calls for 235 housing units developed lots on 54 acres, 176 being single family and 60 being multifamily, which would be townhomes. All this land is laid out in the zoning sketch plan before the Commission, and as Mr. Ruska pointed out, identifies the various conditions and those conditions are also enumerated as conditions with their zoning request. The traffic study required was done by Wilbur Smith Associates and turned into staff. The study indicated there are no traffic or transportation difficulties that would occur in connection with their proposed development in this area. They had a neighborhood meeting last week that was very lightly attended, but he would characterize that as a very positive, cordial and encouraging. In summary, he said with all the considerations that he had put before the Commission and the consistency of their request with the City growth pattern targets, as well as its consistency with the comp plan, he would appreciate the Commission's positive consideration related to their annexation and original zoning request.

Mr. Haynes asked if, from the traffic study, it would be required to have a stoplight on Birch Creek and Highway 70?

Mr. Hall said staff did not indicate that that would be required, although they did indicate that

at some future point, further study might be warranted in that area.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

Melvin Payne, 3835 Bittle Road, Gibsonville, NC, said he owned a lot in the very corner adjoining the subject property. His daughter is a teacher and she could not be here, but she owns a home and he thought it was the one single yellow home on the other side. He said he was not necessarily in opposition to these people building homes, but his concern was that Arapco's development floods his daughter's lot and house underneath the crawl space and the trunking that crosses Birch Creek is 4 feet. Arapco has a 6 foot pipe coming to that 4 foot pipe. However, he felt that the water problem needed to be addressed along with the road problem. He said in the process of approving this rezoning, if we are looking at roads and whatever, that water problem is a serious problem and needs to be addressed in this situation. He said he did not know who looks at that or who determines that or where it is addressed, but he was extremely concerned about that water.

Chairman Wolf said that would not be something that this Commission handled. Mr. Payne would have to contact the City staff, storm and erosion control.

Mr. Ruska said that was true and it would also be looked at at the time of detailed site plan preparation.

Chairman Wolf said that was as to this property, as to whether this property that is up for rezoning has an impact upon that water. But if you have an existing problem with the current development that is there, he suggested that Mr. Payne contact the storm water and erosion control and express his concerns and see if he could be a part of the process of the approval of the developer's plans.

Mr. Payne said he thought this development would make the water problem worse because the hill goes that way. Also, he said he went to the meeting and there were not very many people who knew about the meeting. He thought there was no concern about houses being built there and the rezoning, but a lot of people with whom he talked thought the density from what is around it, the agricultural and the fact that that 120+ acres are RS-20, it is the multifamily portion of the plan. If it were 40+ homes instead of the 60+ in that one section, it would be better. All the property surrounding it is not that dense and it is not compatible to take a little section out in the County and make it City particularly referring to the density of that one section. He said he would try to follow through with whoever looks after the water.

Mr. Morgan said that the Planning Department recommends that this original zoning request be approved. At its December 17, 2003 meeting, the Greensboro Planning Board voted unanimously to recommend annexation of this property. This tract abuts the Birch Creek Ridge Subdivision, already within the city limits, on its north side. There is an 8-inch water line in Birch Creek Road, and there is a sewer lift station alongside the northeast corner of the property. This property is in the Tier 1 growth area as identified in Connections 2025. The Generalized Future Land Use Map shows this area to be Low Residential (3-5 dwelling units/acre). The overall density for the proposed planned unit development is 4.29 units/acre that is compatible with Connections 2025. The zoning sketch plan for this tract has received

TRC approval, including provisions for watershed protection measures and a general street pattern.

Ms. Wright moved a favorable recommendation for an ordinance establishing original zoning from County Zoning Agricultural to City Zoning Conditional - Planned Unit Development - Residential District, seconded by Mr. Gilmer. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes. Nays: None.)

B. AN ORDINANCE REZONING FROM RS-7 RESIDENTIAL SINGLE FAMILY TO RM-26 RESIDENTIAL MULTIFAMILY – FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF PICHARD STREET BETWEEN MCCONNELL ROAD AND EAST LEE STREET – FOR HOMECOMINGS FINANCIAL. (DENIED)

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property.

Chairman Wolf asked if there was anyone present who wished to speak in favor of this request and no one came forward.

Chairman Wolf then asked if there was anyone present who wished to speak in opposition to the request.

Miles Hurdle, 1900 McConnell Road, stated his home was on the corner of Pichard and McConnell. He said that the area requested for rezoning to multifamily has a lot of lots that the City has purchased and he saw a lot of developers coming in, wanting to put in multifamily housing, little duplexes. The area above, which was described as Willow Oaks, is a new community for the people down there. They have gone in to try to build houses. That part of Greensboro was ravaged with drug dealers and houses and what have you all over. The City decided it would go in and tear down Morningside Homes in order to put in housing for people. His home is a brick 2 story house on the corner of McConnell and Pichard, and they have put a lot of investment in the neighborhood for the simple reason that they thought the neighborhood was going to survive, but also the neighborhood is a good neighborhood to be in. Now to have developers to come in and spot zone housing, which he did not even know was legal, but this is in essence what they are requesting. On both sides of the street there is no parking to a certain degree. They are looking for developers to come into their neighborhood who are willing to build houses that people could buy. In the two years they have been there, they have found people are starting to improve their property. He said he did not think it was right that developers could come in and spot zone areas to put housing. His concern in being a resident on that side of town is that they are not going to let people come in with just spot zoning. Until they get to the place where they have responsible rental owners, they are always going to have a side of town where the landlords collect the rent and the houses look unkempt. He did not think this was the right way to handle the situation. He was proud of his neighborhood and did not want to see developers come in to change that. He thought this community deserved a break and not a knife in the back from developers who want to come in, put up shoddy housing, rent it out and expect the other residents to live in the chaos that they had before.

Larry Holt, the HOPE VI Director for the Greensboro Housing Authority, said that the area shown as Willow Oaks is his neighborhood. They are making some very good progress there.

The City has acquired a lot of the adjacent property to the Morningside Homes that is in the process of being developed. The zoning of TN-1 is certainly in keeping with what they are trying to do. He said what they had done so far was a good start. The other area, the boundary for the development and the Redevelopment Plan, includes the area south of their community all the way down to Lee Street. The City is working to rehab and encouraging owners to fix up and maintain in that area. They certainly think the RS-7 is an adequate zone. They would like to see it remain as such and would request that this petition be denied and that the area remain as is.

Mr. Morgan said that the Planning Department recommends that this request be denied. Staff feels that it would be arbitrary to single out one lot in the middle of a block that is uniformly zoned RS-7 for a multifamily zoning classification. The view that this constitutes spot zoning is further reinforced when one considers the uniform zoning pattern of single family south of McConnell Road in this extended area. The City Council adopted the Morningside/Lincoln Grove Redevelopment Plan in July 2000. The adopted plan shows that the proposed zoning of this property should remain RS-7. The Plan stresses that home ownership increases chances for the long-term stability of the neighborhood. Lots on the south side of McConnell Road are not currently scheduled for acquisition or reconstruction. Instead the long-range plan for that portion of the redevelopment area includes rehabilitation of existing structures and incentives to increase home ownership. Housing and Community Development staff does not believe that conversion of one lot to accommodate a duplex supports this ultimate goal of increasing home ownership and, therefore, they do not support this request. Based upon the inconsistency of this request with the zoning pattern and the concerns expressed relative to the redevelopment plan, staff strongly recommends that this request be denied.

Mr. Haynes moved an ordinance rezoning from RS-7 Residential Single Family to RM-26 Residential Multifamily, seconded by Ms. McDonnell. The Commission voted 0-9 in favor of the motion, denying the request. (Ayes: None. Nays: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes.)

Mr. Gilmer said he heard the name "developer" mentioned quite a few times and it looked like the person requesting the rezoning was some kind of financial security company. So he did not want to see the developers get beat up.

C. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – RM-5 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITION: 1) TOWNHOUSE UNITS FOR SALE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTHWEST SIDE OF BASS CHAPEL ROAD OPPOSITE NORTHERN SHORES LANE AND NORTH OF REGENTS PARK LANE – FOR FELIX SEMPER, MAELENE WOODS, TALMA COOK AND LILLIE MAE JONES. (APPROVED)

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property.

Chairman Wolf asked if the applicant would come forward.

Randy Dixon, 2802 St. Leo's Street, said that he represented the parties requesting this rezoning. He said he would separate his comments in two parts. The first part was concerning how they believe this request is in keeping with the Greensboro Connections 2025 comprehensive plan. Then he would make specific comments about this request in relationship to the surrounding area. In reviewing the land use plan of the comprehensive plan, he stated that this request represents a community that will provide a safe, well maintained, livable neighborhood and provide a high standard of development quality, as well as provide a balanced investment, creating quality suburban places that offer a choice of settings and lifestyles. That is a major part of the vision statement that forms the basis of the land use goals in the plan. This request incorporates the generalized future land use category of low residential, which is 3 to 5 dwelling units per acre. This property also meets the classification of infill in that it can add diversity, expand housing choices and compliment and support the character and appearance of the neighborhood that surrounds it. He then handed up to the Commission a small packet of information related directly to this request and the surrounding area. He then went through the packet of information and explained its contents. He had sent a letter to 37 surrounding property owners. He had spoken with several surrounding property owners in the last few weeks and he had met with several more personally, as well as having a meeting with a group of them this weekend. He said the style homes depicted in the illustrative photographs were style homes already present in The Pointe section of Lake Jeanette. He said it should be noted that at this point in time, there were only two residential property owners who abutted this property. He said the small number of homes in this community would not impact the traffic on Bass Chapel Road or any other surrounding road. The typical owner of these homes they classify as "empty nesters" and will not affect the enrollment of Jesse Wharton Elementary or any other schools. In closing, he said they believed that the quality of this development would be in keeping with the surrounding communities.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to the request.

Barbara Capobianco, 5402 Blue Heron Drive, said that for many years, the northern end of Greensboro stopped at Lake Jeanette. Beyond that were farms and forests and family property. Development of new neighborhoods pushed City living beyond the lake and as a homeowner in that area she loved how and where she lived. She appreciated the fact that property owners have the right to the highest and best use of their of their land until it affects the overall good of the community. She believed that this development taxes the roads and traffic loads beyond their already bulging capabilities. Bass Chapel Road is a winding, 2 lane country road that becomes 4 lanes as Elm Street passes and goes downtown. As a homeowner, she was completely concerned about the safety of this road and about her children. Lake Jeanette is a swim and tennis community where children and adults cross Bass Chapel Road on foot constantly 9 to 10 months of the year. There have been several auto accidents in this area because there are poor sight lines. She was concerned about her neighbors and herself. She said she did not specifically oppose additional growth in this area, but as the result of the growth of Northern Shores and the continuation of the Blue Heron neighborhood, car accidents and excessive speeds are a huge problem. Development in this area is inevitable, but accidents and injuries do not have to be. Ms. Capobianco said she had

been a homeowner in the area going on 5 years.

Penny Graves, 2 Genoa Court, said they moved to Greensboro 7 years ago. They were drawn to the beautiful single family homes in Southern Shores of Lake Jeanette and were told that this was a great neighborhood for families with young children. They focused their search in Southern Shores, a single family residential area. You could imagine their distress over the Christmas holidays detailing the proposed zoning change of the wooded land behind their houses from single family to multifamily. They respect the right of the landowner to sell this land and they realized that one day these woods would one day be developed. However, they were very concerned that rezoning this land from single family to multifamily will negatively affect their property values and is not in keeping with the design of Southern and Northern Shores, which will border this project. It is their understanding that the developer will only develop this land as multifamily townhomes and apparently this is in keeping with the City's comprehensive plan. She said they respectfully submit that each property should be carefully considered in regards to this plan and the environments and the standards of their neighborhood. The developer has told them that he is already trying to buy more land from the church and another private citizen that would double the scope of this particular project. There is huge opposition within Southern and Northern Shores over this issue, but because of the time limitations before this meeting, they have only just begun to organize. The large and growing numbers of signatures on current circulating petitions from both areas indicate that there is much interest and concern.

Ellen Fennie said that her husband and family reside at 1506 Regents Park Lane. Four years ago, her husband and she bought a beautiful home in Southern Shores. Over the Christmas holidays while they were away, they received a letter from Randy Dixon detailing the proposed rezoning of the property behind them from single family homes to multifamily units. They met with Mr. Dixon and Randy Stone this weekend, at which time they explained the proposed condo complex to current residents of their neighborhood. The Thomas Oaks Development, after which this development will be modeled, is located off Westridge Road on Whitehurst Drive. She submitted to the Commission a current market analysis of the neighborhood, pictures of the property to the left of Thomas Oaks, which is zoned commercial, and pictures of the minimal landscape barriers that were planted by these builders. The current market analysis for these homes around the Thomas Oaks neighborhood is \$140,000 to \$145,000. These residents may have actually benefited from the Thomas Oaks project in that the townhouses are in the \$250,000 range. Their neighborhood of Southern Shores has a current market analysis in the \$400,000 range for custom built homes. There is no commercial property in Southern Shores. The proposed townhomes are not in keeping with Southern Shores. Allowing a multifamily complex to be built in their own backyards will destroy the quality of life as they enjoy and diminish the investment made in their property. She handed up to the Commission the market analysis done this morning and the pictures referred to in her remarks. She said the pictures depicted the barrier built in Thomas Oaks between the single family and multifamily homes, which was very minimal.

Pamela Kompaski 602 Topwater Lane, said she was actually Daybreak Square, Northern Shores. Her main concern was the traffic and transportation. Eventually Painter Boulevard would be coming through and right now they go from 4 lanes down to 2 lanes on Bass Chapel when it hits the intersection of Lake Jeanette Road. She felt the other developments that Mr. Stone has over on Thomas Oaks and in Indigo, both are on a tertiary street as compared to

Bass Chapel. She wanted to know if the developer would be willing to put a stoplight in or widen the road.

Len Sweeney, 1504 Regents Park Lane, said he purchased his property in Lake Jeanette a little over 10 years ago, with the accurate understanding that all the property adjacent to his was zoned single family. Had he imagined that condominiums could be built in his backyard, he assured the Commission that he would not have made that investment. He was aware that the plan as proposed does not currently include the land that is adjacent to his property. The small parcel zoned RS-12 adjacent to the proposed development for the time being will remain single family, although he was aware and he assumed the Commission was aware of the developer's proposal to expand his current plans to include that property. He was opposed to the plan as submitted, although it seemed to him that some additional conditions to the development respective to buffers and landscaping might be a reasonable alternative. However, as these conditions do not currently exist, he was opposed to the rezoning request. He said he understood that this was a profitable proposal for several parties, including the current landowners, the proposed developers and select realtors. However, he did not agree that they should profit with the support of this Commission at his and his neighbors' expense.

Chairman Wolf said the applicant would have 5 minutes for rebuttal.

Randy Dixon returned to the podium and said concerning the traffic, as he said before the number of units they are proposing is very minimal compared to the amount of traffic on Bass Chapel Road. He would not disagree with Ms. Capobianco or any of the other people concerning the amount of traffic on Bass Chapel, but concerning a stoplight or a flashing light or whatever, that is not their call, it is the Department of Transportation's determination. Concerning the issue of Thomas Oaks, the property sales in the British Woods area, which is where Thomas Oaks is, depending on where it is in British Woods, is \$180,000 to over \$300,000. To say that it benefited the British Woods neighborhood by building those units over, increasing their property values, he did not believe was a legitimate statement. As to the existing woods in the area, if you will look on the aerial, it can be seen that they are in somebody's existing backyard or are on the property or on the adjacent residential property, which is classified as the Rankin Property. They are not against having plenty of barriers between the backs of their proposed homes and the backs of existing homes. However, until they know exactly where they can put everything, they do not know what they can do at this point in time. However, they understand that is a concern. Based on Connections 2025, they feel this rezoning is in keeping with that plan. He said they were talking about approximately 18 units total.

Chairman Wolf said the opponents would have a total of 5 minutes for rebuttal.

Ms. Capobianco returned to the podium and said she respected the fact that the applicant had presented it to them that these homes would be marketed more towards "empty nesters." But she did not think they could say who buys homes. They do not anticipate that an empty nester would have any less cars per home than normal, so she thought from a traffic and safety point of view, she did not know that empty nesters were any safer than anything else.

Ms. Feeney returned to the podium and said she would like the Zoning Commission to look at the tract zoned RS-12, the proposed Rankin Property. That is the part of the land that has not been sold yet that is already on the map that backs up to the Sweeney's' property and their

property. Should this property be multi zoned, the next tract of land would go multi zone. She would like the Commission to consider how they are altering their neighborhoods.

John Graves said he lived at 2 Genoa with Penny Graves, who had already spoken. He then gave the Commission the values of some of the surrounding properties. He thought the other thing that was important to remember was this would be an isolated development of 18 units, but it would be 30, if the developer could purchase the land surrounding there. He asked what would happen farther north of this area? He said there were other odd tracts of land that are waiting to be decided upon and sort of in a semi-domino affect, if you allow this project, initially the Rankin Property RS-12, becomes almost worth nothing except to someone else ready to put townhouses on that land. Similarly as you go farther north of Northern Shores, you will have the same thing. The land will be much more valuable to developers to be developed in this capacity. To say that you cannot develop that land with custom built homes and make a profit is disingenuous.

Mr. Byrd said he had a question for staff. He said several people had expressed the concern that unless we reject this application, we are sort of getting the camel's nose under the tent to develop up Bass Chapel Road. He said the watershed critical area was fairly close north of this property; was that correct?

Mr. Ruska said it was close, but he did not believe this property was in the watershed critical area. He had no idea how far up that would be and he did not have a map with him that would show that.

Mr. Morgan said that the Planning Department recommends that this request be approved. The Generalized Future Land Use Map shows this area to be Low Residential (3-5 dwelling units/acre). Townhouse units at a density of 5.0 units per acre would be compatible with Connections 2025. This request is also compatible with comprehensive plan objectives to promote compact urban development and to provide a variety of housing opportunities. Furthermore, a good portion of the property in this immediate area is zoned planned unit development – mixed. While not a part of the Lake Jeanette planned unit development, this proposal contributes to the mix of housing types that characterizes such a zoning district and, for this reason, fits in with the overall zoning pattern.

Ms. Wright moved an ordinance rezoning from RS-12 Residential Single Family to Conditional District - RM-5 Residential Multifamily, seconded by Mr. Schneider. The Commission voted 8-1 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell. Nays: Haynes.)

D. AN ORDINANCE REZONING FROM RS-20 RESIDENTIAL SINGLE FAMILY, RS-12 RESIDENTIAL SINGLE FAMILY, GENERAL OFFICE MODERATE INTENSITY, HIGHWAY BUSINESS, AND CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES ALLOWED IN THE LB ZONING DISTRICT PLUS RESTAURANTS (NO DRIVE-THRU) AND RETAIL WINE SALES INCLUDING PERIODIC WINE TASTINGS, CLASSES AND RELATED WINE-TASTING EVENTS AS ALLOWED IN THE GB ZONING DISTRICT, EXCEPT THE FOLLOWING SHALL NOT BE PERMITTED: MINIATURE GOLF COURSE, CONVENIENCE STORES (WITH OR WITHOUT FUEL PUMPS), GASOLINE

SERVICE STATION, JUNKED MOTOR VEHICLES, LAND CLEARING AND INERT DEBRIS LANDFILLS. 2) NO METAL BUILDINGS. 3) EXTERIOR LIGHTING SHALL BE DIRECTED AWAY FROM ADJOINING PROPERTIES. 4) APPLICANT SHALL CONSTRUCT AND MAINTAIN A WOOD OPAQUE OR SHADOWBOX FENCE ALONG ANY ADJOINING RESIDENTIALLY ZONED PROPERTY. 5) APPLICANT SHALL COOPERATE WITH THE CITY'S URBAN FORESTER TO PRESERVE EXISTING TREES ALONG ANY RESIDENTIALLY ZONED PROPERTY.

- TO CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES IN GENERAL BUSINESS ZONING DISTRICT EXCEPT: AGRICULTURAL USES; RESIDENTIAL USES; BILLIARD PARLORS, PSYCHIATRIC HOSPITALS; RETREAT CENTERS; SPECIALTY HOSPITALS; FUNERAL HOMES OR CREMATORIIUMS; TANNING SALONS; TOURIST HOMES (BED & BREAKFAST); LIVE ENTERTAINMENT BUSINESSES, ADULT; MOTOR VEHICLE SALES (NEW AND USED); MOTORCYCLE SALES; PAWNSHOPS; RECREATIONAL VEHICLE SALES; BUS TERMINALS; COURIER SERVICE SUBSTATIONS; TAXI TERMINALS; UTILITY LINES AND RELATED APPURTENANCES; UTILITY SERVICE FACILITIES (NO OUTSIDE STORAGE); AGRICULTURAL USES PERMITTED WITH DEVELOPMENT STANDARDS; RESIDENTIAL USES PERMITTED WITH DEVELOPMENT STANDARDS; JUNKED MOTOR VEHICLES; EDUCATIONAL AND INSTITUTIONAL USES PERMITTED WITH DEVELOPMENT STANDARDS; ADVERTISING SERVICES, OUTDOOR; AUTOMOBILE TOWING AND STORAGE SERVICES; MASSAGE PARLORS, ADULT; REFRIGERATOR OR LARGE APPLIANCE REPAIRS; THEATERS, ADULT MINI MOTION PICTURE; THEATERS, ADULT MOTION PICTURE; BOOKSTORES, ADULT; BUILDING SUPPLY SALES (WITH STORAGE YARD) AND TRANSPORTATION, WAREHOUSING AND UTILITIES PERMITTED WITH DEVELOPMENT STANDARDS. 2) THERE SHALL BE A MAXIMUM OF TWO POINTS OF ACCESS ON BATTLEGROUND ROAD/US 220, THE SOUTHERN ACCESS BEING A RIGHT-IN/RIGHT-OUT AND THE NORTHERN ACCESS BEING A RESTRICTED SOUTHBOUND LEFT-OVER/RIGHT-IN/RIGHT-OUT IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND GREENSBORO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. 3) THERE SHALL BE A MAXIMUM OF ONE POINT OF ACCESS ON OLD BATTLEGROUND ROAD IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND GREENSBORO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. 4) THERE SHALL BE A MAXIMUM OF THREE POINTS OF ACCESS ON MICHAUX ROAD IN CONFORMANCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND GREENSBORO DEPARTMENT OF TRANSPORTATION REQUIREMENTS. - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF OLD BATTLEGROUND ROAD BETWEEN U.S. 220 NORTH AND MICHAUX ROAD – FOR JAMES WILLIAM CASE ET AL. (CONTINUED)

This item was continued until the February meeting of the Commission.

Chairman Wolf declared a 10 minute recess from 3:45 to 3:55 p.m.

Chairman Wolf said before the Commission moved on to Item E, he had been approached by

someone in Item F and they wish to withdraw that item from the agenda today.

E. AN ORDINANCE REZONING FROM RM-18 RESIDENTIAL MULTIFAMILY TO CONDITIONAL DISTRICT – RM-26 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) EXISTING 2 STORY BRICK DWELLING LOCATED AT 520 S. AYCOCK STREET TO REMAIN AND TO BE RENOVATED. 2) CONSTRUCT ONE ADDITIONAL BUILDING CONTAINING A MAXIMUM OF 12 UNITS. - FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF SOUTH AYCOCK STREET BETWEEN MORTON STREET AND COBB STREET – FOR JAMES D. GALYON, JR. (WITHDRAWN)

Jim Galyon said he represented Collins, Galyon and Stratton, 203-B South Church Street. He said they begged the Commission's pardon and respectfully requested that they be allowed to withdraw Item F from the agenda.

Ms. Wright moved that an ordinance rezoning from RM-18 Residential Multifamily to Conditional District - RS-26 Residential Multifamily be withdrawn, seconded by Mr. Gilmer. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Higgins, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes. Nays: None.)

Chairman Wolf said Mr. Higgins wished to be excused for the balance of the meeting. He had a conflict and had to leave.

Mr. Gilmer moved that Mr. Higgins be excused from the balance of the meeting, seconded by Mr. Collins. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Gilmer, Schneider, Wright, Collins, Byrd, McDonnell, Haynes. Nays: None.)

E. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO RS-9 RESIDENTIAL SINGLE FAMILY – FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF MERRYWEATHER ROAD BETWEEN KALLORAMO DRIVE AND KIPLING DRIVE SOUTH OF REPON STREET – FOR KOURY CORPORATION. (APPROVED)

Chairman Wolf said Mr. Byrd would not be participating in this request since his firm does legal work for the applicant.

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property.

Steve Showfety said he was associated with Koury Corporation, the sponsor of the request. He said Koury Corporation completed just last summer an approximately \$500,000 wetlands mitigation stream restoration project on the main creek that transverses this property and brought their attention back to this approximately 180 acre overall site, which is one of the largest undeveloped sites within the City Limits of Greensboro. The site contributes to the fact that it is the largest site in Southwest Greensboro and maybe inside the City Limits, that does not have a completed roadway system. Therefore, to travel in the neighborhood, you would have to have the boundaries of High Point Road to the north, Groometown Road to the west,

Vandalia Road to the south and Holden Road to the east. So there is no network of how to get through that large City area as a result of this undeveloped site. Two of those roads

alluded to are part of the collector system roadway network that is proposed by the City and they learned of that fact back in 1978 when zoning activity on a portion of this property was the most recent action taken with regards to zoning of this tract. That tract was rezoned at the time to Conditional Use -Institutional 100. The property in question is approximately 39 acres on the rear portion of the property, if you are fronting on Holden Road. They are requesting rezoning from an RS-12 single family residential land use to an RS-9 single family residential land use. Some of the other properties that abut the subject overall site is the 600 unit apartment complex, Stones Throw Apartments, which is on Farmington Drive. Also in the immediate area is the Stones Throw Shopping Center, a 178,000 square foot shopping center that fronts on Farmington Drive as well. Immediately after filing the rezoning request in December, they submitted a letter to the 21 adjoining property owners that were part of the application process, advising them of their intentions to rezone the property and inviting questions. The neighborhood did respond to the letter and they subsequently hosted a neighborhood meeting on the 7th of January. Nine representatives from the neighborhood attended the meeting, which included 8 property owners. Their primary concern appeared to be the size of the lots as RS-9 versus the RS-12, which they believe from their comments was a concern because it potentially had the impact that it could devalue the RS-12 homes in the neighborhood. The applicant had shared general information on the sales of homes in the vicinity over the past year. He shared with the Commissioners a handout shared with the neighbors, which was a suggested layout, subject to the Technical Review Committee (TRC) review and approval. He then described an overhead slide being shown. They elected to pursue a single family request in lieu of a more transitional zoning request, multifamily, which is typically used as part of a transition type zoning. He pointed out from the cover page that the RS zoning, were it to be engineered and accepted by the TRC, as illustrated on the diagram, shows approximately 87 lots that could be developed under the RS-12 zoning, or 127 lots if clustering was done, leaving 15 percent as open space. The final illustration was what they intended to do, if their request is approved. They would develop the property with single family with the RS-request, which would be 114 lots. Seldom are you able to achieve in the final analysis what the concept plan is, but it is consistent from all three drawings what the baseline proposals on those would be. The comprehensive plan tried to identify the urban sprawl issue, which is something with which all of America is concerned. He then gave the definition of sprawl. He said they felt that the two roads to which he alluded earlier, Frazier Road traveling from east to west and Glenhollow Road traveling from north to south, are natural boundaries that would leave the remaining part of this property as the corporate park. The transitional land use of RS-9 appears to be a natural step down in land use and increased density that would be far less impactful than a multifamily zoning request.

Chairman Wolf asked if there was anyone who would like to speak in opposition to this request.

Howard Weast, 3810 Repon Street, said there were many more residents who were unable to be here and also they have petitions. He had with him one with about 56 names and they have others that they were not able to get here and were unable to bring that are opposing this change. He said about 35 years ago, the Koury Corporation requested the rezoning of this property, which at that time was RS-20 to RS-9. After discussing it and attending the Zoning Commission meeting, they agreed to go to RS-12 and he thought they were going to start

building houses at that time. So that property has been there zoned RS-12 for at least 35 years. The surrounding areas include a substantial number of people who have invested a lot

of time and money in their homes. Koury Corporation is preparing the land for sale, but they are not building themselves. Anyone who develops this land or builds houses on it is up in the air as to what it would be. Koury Corporation could probably get the same amount of money by selling these lots to builders at 12,000 square feet as they would at 9,000. There is no doubt that the changing of this zoning will affect the values of the houses in the surrounding community. This change of zoning is not advantageous to those in the surrounding community. It would very definitely adversely affect them.

Kathy Edwards, 3103 Merryweather Road, said her house currently backs up to the 180 acres of woods. She would rather have no houses go there. Even though RS-12 allows for 3 houses per acre, you can tell by the layout of the houses that they are on fairly large lots. To get from the proposed neighborhood, you will have to go through an existing neighborhood to get to Groometown Road. She thought they proposed a road to go into Frazier. What they do not show on the map is that on the corner of Kipling and Merryweather is a City park. There will be increased traffic. Sedgefield Elementary School was just added onto and holds about 500 students, but she thought it was almost at capacity. Right now, the school buses enter the school from Groometown on a one-way entrance, unload the students, and exit off onto Frazier Road. All car riders have to enter the school off Frazier Road. This is going on at the same time that people are trying to get to work.

Ms. McDonnell said she had a question for staff. Does the comprehensive plan call for corporate park? Did she understand Mr. Showfety correctly on that?

Mr. Ruska said it was a combination. The western portion of the property is shown as low density residential at 3 to 5 dwelling units per acre. A portion of the property is shown as corporate park, that is true, but corporate park also makes allowance for residential uses as described in that kind of classification.

Ms. Edwards said 3 houses per acre to her is more than enough. For them to try and get it changed where they could put 4 houses per acre, she did not agree with that. She was opposed to developing it at all, but she did not have any control over it. But just to change in the middle of all the RS-12 zoning to RS-9 does not seem appropriate to her.

Mary Johnston, 3900 Raintree Drive, said her front door was on Raintree and her driveway was on Merryweather, which is a nice wooded area currently. She said they were going to have progress, whether they liked that or not. She agreed with the RS-12 and not the RS-9 as she had been in the neighborhood for less than two years. But there also is a very big environmental impact, 1.25 tons of waste per household in our County and in the City. She said they would have a problem with that with the industrial area there with the corporate park. They already have an overcrowding problem as it is with schools. The Board of Education is still in the process of redistricting some of those schools as well. There also is the concern about Merryweather having the City park there. She said they were going to progress, whether they liked it or not. She would prefer to have fewer houses per acre just because of the environmental impact of our waste. We are running out of water in the City and County anyway and to put more houses is just taxing that until they can resolve that problem. She preferred the land be left zoned at RS-12 rather than going to the RS-9.

Chairman Wolf asked if the applicant would like 5 minutes of rebuttal time.

Mr. Showfety said he really did not have any new information to offer.

Mr. Morgan stated that the Planning Department recommends that this request be approved. The Generalized Future Land Use Map shows the western portion of this property to be Low Residential (3-5 dwelling units/acre). The remainder of the property is designated as Mixed Use Corporate Park. Mixed Use Corporate Park is intended for large tracts of undeveloped land that are appropriate for well planned, larger scale business/employment parks with supporting uses such as retail, hotels and residential. Approval of this request would permit approximately 38 additional dwelling units over what the RS-12 classification would allow. Staff feels that this request is compatible with Connections 2025, with existing zoning and single family land use, and with the applicant's pending plans for the tract east of and adjacent to the subject property. This request also meets comprehensive plan objectives of providing affordable housing and promoting compact urban development.

Mr. Schneider said he just wanted to touch back on how this is different from the other, if it is supposed to be corporate park. Is more than 10 acres of it going into the corporate park?

Mr. Ruska said no. As Mr. Morgan just said, corporate park does allow for residential. The reason for that is if you have a well planned corporate park, it should be compatible with residential development. The secondary thing is you are also providing homes for people who may work in that corporate park. So that is why it does allow residential. That would be all forms of residential - single family, as well as multifamily, townhouses, cluster housing and apartments.

Chairman Wolf said he saw Mr. Weast waiving at him, but the public hearing was closed. However, he allowed Mr. Weast to speak.

Mr. Weast returned to the podium and said he could barely hear what Mr. Ruska was saying. He just wanted to again say that they respect the Koury Corporation. They are not going to build any of the houses built out there. All they are going to do is prepare the lots and sell the lots to one or more builders.

Chairman Wolf said the Commission understood that.

Mr. Weast said they were looking at a shot in the dark here. He said they were a little bit astounded that the City Planning would recommend or go along with something like this, knowing how this is located and just overlooking the thoughts and the feelings of the people who live there.

Mr. Collins said it was kind of weird to have this big a piece of property still left inside the City. He said what he was torn about was this is the type of thing where there is pressure that we put on ourselves to try to compact our development and he had a feeling that the property values would remain about the same with this being a little smaller. He meant to ask what size houses could go on this, but his guess is somewhere around 1200 to 1500 square feet.

Mr. Weast, speaking out of turn, was not at a microphone.

Mr. Collins said he thought what they would find was the property values would remain about the same. What the Commissioners really get torn with is we are asked to try to compact development into the City of Greensboro and they are trying not to go out into the County as much as they can. That is that "sprawl" word that comes up. So when you get this big a piece of property still in the City of Greensboro, he thought the Commission had to move towards trying to make that development what they can. He said he would be supporting this.

Chairman Wolf said he agreed with Mr. Collins. This is a little bit bigger than some of the other ones that the Commission had done, but the Commission had also done some that are fairly good size in terms of going to larger density. It is not a lot different than the one they just did at Lake Jeanette, asking homes that are huge homes to live with a little more density next to them going to townhomes. It is in the same kind of thing of wanting to tighten up our density so we don't force all our development out into the County. He thought the Commission had been consistently applying that over the last year or so. So he would support this as well.

Mr. Gilmer moved an ordinance rezoning from RS-12 Residential Single Family to RS-9 Residential Single Family, seconded by Ms. Wright. The Commission voted 7-0-1 in favor of the motion. (Ayes: Wolf, Gilmer, Schneider, Wright, Collins, McDonnell, Haynes. Nays: None. Abstain: Byrd.)

ITEMS FROM THE PLANNING DEPARTMENT:

None.

ITEMS FROM THE ZONING COMMISSION MEMBERS:

Mr. Gilmer asked staff if there would be any way when the notices go out that the people could be put on notice that the hearing could possibly be continued until the next month? Is there any disclaimer or anything that could be put on the notices, or would that kind of scare people off?

Mr. Ruska said with the number of continuances that they deal with, that would be confusing and staff already sends out so much information in a notice that to start adding more and trying to qualify that, he thought would be really confusing. He thought it might even lead to people not showing up, misreading that about continuances. Typically, in cases where they know that a continuance is going to take place, either between the Planning Department or the applicant, we have gotten the word out to key people to spread it to other folks so that hopefully it will avoid them from making a trip down here. He said it could not be on the website because it was not officially continued until the Commission takes action on it.

Mr. Gilmer said the reason he brought it up was because it was brought up to him on break and he was asked if any consideration could be given to that. So that was the only reason he brought it up.

Ms. Wright said she understood the concern that those people had, but both Ms. McDonnell and she had both been at it from that same position and you do what you have got to do.

Chairman Wolf asked when did staff anticipate the recommendations that go on the site and that are also delivered to the Commissioners, in what month?

Mr. Ruska said those would be effective at the March 8, 2004, meeting so hopefully if things work out according to their schedule, March 4th you should receive written staff reports for the March 8th meeting, but next month will be the last month under the old system.

Mr. Collins asked what the possibility was for the recommendation to be changed between Friday and Monday, none? That will be your official recommendation.

Ms. Wright asked if staff did not sometimes make recommendations and suggest to an applicant that if they change the conditions, that you might change your recommendation?

Chairman Wolf said you always have that possibility. If something changes from what is officially on the agenda, he thought it was open season in terms of what can be said at the hearing that day.

Mr. Ruska said that was right because the applicant could make that change at the hearing. And in cases like that, if there is a chance that that may happen, staff typically has two recommendations prepared.

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There being no further business before the Commission, the meeting was adjourned at 4:29 p.m.

Respectfully submitted,

R.W. Morgan
Assistant City Manager

RWM/jd.ps